

# Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: October 11-12, 2006

Reference No.: 2.5e.(1)  
Action Item

From: CINDY McKIM  
Chief Financial Officer

Prepared by: Ross A. Chittenden  
Division Chief  
Transportation Programming

Subject: **ALLOCATION FOR SUPPLEMENTAL FUNDS FOR PREVIOUSLY VOTED PROJECTS  
RESOLUTION FA-06-06**

## **RECOMMENDATION:**

The Department of Transportation (Department) recommends that the California Transportation Commission (Commission) approve Resolution FA-06-06, allocating an additional \$895,000 for the projects listed below.

## **ISSUE:**

Additional funds are needed for two previously approved projects in order to settle construction claims and close out the contract.

## **RESOLUTION:**

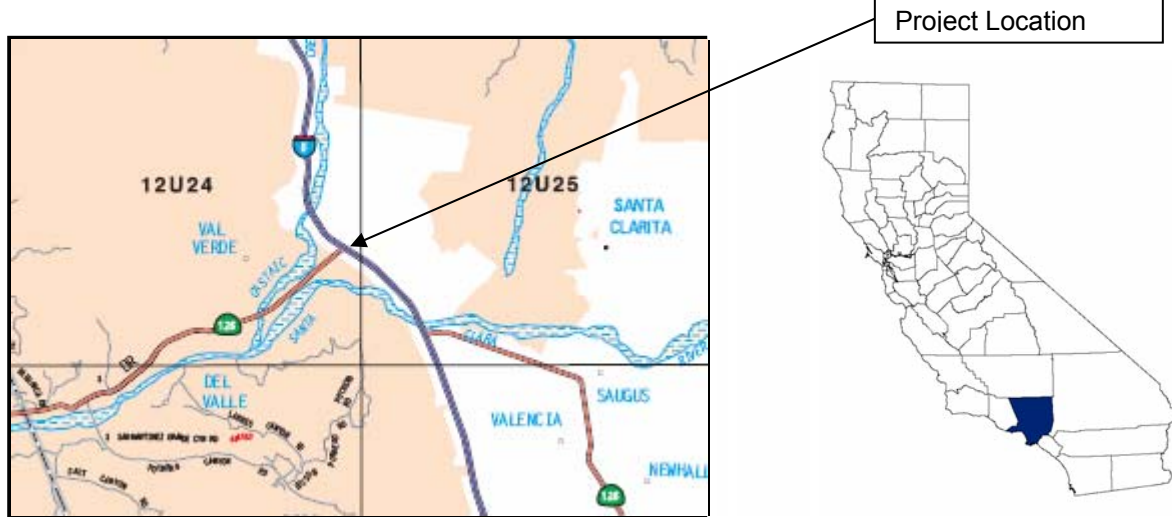
Resolved, that \$840,000 be allocated from the Budget Act of 2006, Budget Act Item 2660-801-3093, and \$55,000 be allocated from the Budget Act of 2006, Budget Act Items 2660-302-0042 and 2660-302-0890, to provide additional funds for the projects identified below.

<u>Project</u>	<u>Dist-Co-Rte</u>	<u>Original Vote/G11 Amount</u>	<u>Original Award Amount</u>	<u>Current Allocation</u>	<u>Allocation Adjustment</u>	<u>Revised Allocation</u>	<u>% Increase Above Current Allocation</u>
1	07-LA-5, 126	\$9,600,000	\$9,480,000	\$10,505,000	\$840,000	\$11,345,000	8.0%
2	10-SJ-5	\$11,900,000	\$14,415,000	\$15,640,000	\$55,000	\$15,695,000	0.4%
<b>Total</b>		<b>\$21,500,000</b>	<b>\$23,895,000</b>	<b>\$26,145,000</b>	<b>\$895,000</b>	<b>\$27,040,000</b>	<b>3.4%</b>

Project # Allocation Amount Recipient County Dist-Co-Rte Postmile	Location Project Description Reason for Supplemental Funds	EA PPNO Budget Year Prgm Codes Program	State Federal Current Budget Amount	State Federal Additional Allocation	State Federal Revised Total Amount
<b>2.5e.(1) Supplemental Funds for Previously Voted Projects</b>					<b>Resolution FA-06-06</b>
1 \$840,000 Department of Transportation Los Angeles 07S-LA-5, 126 R88.1/R90.4 R9.0/R10.3	In Santa Clarita from Commerce Center Drive to Routes 5/126 Interchange. Reconfigure Interchange.  Supplemental funds are needed to settle construction claims and close out the contract.	187204 07-2209 2001-02 301-0042 301-0890 20.20.025.712 IIP  2001-02 301-0042 301-0890 20.20.075.612 RIP  2002-03 301-0042 301-0890 20.20.025.700 IIP  2002-03 301-0042 301-0890 20.20.075.600 RIP  2004-05 301-0042 301-0890 20.20.025.700 IIP  2004-05 301-0042 301-0890 20.20.075.600 RIP  2006-07 801-3093 301-0890 20.20.025.700 IIP  2006-07 801-3093 301-0890 20.20.075.600 RIP	   \$540,000 \$4,200,000    \$540,000 \$4,200,000   \$30,000 \$232,500   \$30,000 \$232,500   \$29,000 \$221,000   \$29,000 \$221,000   - -  - -  \$10,505,000	   - -    - -  - -   - -  \$420,000 -  \$420,000 -	   \$540,000 \$4,200,000    \$540,000 \$4,200,000   \$30,000 \$232,500   \$30,000 \$232,500   \$29,000 \$221,000   \$29,000 \$221,000   \$420,000 -  \$420,000 -  \$11,345,000

**RECOMMENDATION:**

The Department recommends that this request for \$840,000 be approved to settle construction claims and close out the contract.

**PROJECT DESCRIPTION:**

This project is located on Route 126 in Los Angeles County, from 0.5 miles west to 0.3 miles east of Route 5/126 Separation, and on Route 5 from 0.7 miles south to 0.8 miles north of Route 5/126 Separation and at Traffic Management Center. This project was to widen the highway and bridge and constructed retaining walls.

**FUNDING STATUS:**

At the June 2002 Commission meeting, \$9,600,000 was allocated for this State Transportation Improvement Program (STIP) project and combined with \$9,210,000 in local developer fees, for a total of \$18,810,000. The project was awarded in February 2003 for \$18,690,000. During construction, \$1,025,000 in G-12 authority was approved for contract change orders. The project was completed on November 21, 2005. Since then, the contractor has filed claims in the amount of \$2,192,289. Supplemental funds in the amount of \$840,000 are needed to settle construction claims and to close out the contract.

**REASONS FOR COST INCREASE:**

The contractor submitted an Exception to the Proposed Final Estimate (Exception) on February 21, 2006. In the Exception, the contractor claimed delays in the pile driving operation as a result of ambiguous specifications and differing site conditions. The specifications stated that no pile driving operations shall be performed from April 1 to August 15 within or adjacent to Castaic Creek or Santa Clara River. The contractor claimed that the term "within or adjacent" was ambiguous. In the contractor's bid, the schedule assumed pile driving during this time period. The contractor assumed the pile driving was not "within or adjacent" to the river or creek because the project was 1500 feet from either. The regulatory agency issuing the permit maintained that the project was adjacent to the river and creek and enforced the restriction. As a result, the contractor's operations were delayed from the original bid schedule. Subsequent to the project completion, the department reviewed the contractors claim regarding the ambiguous contract language and agreed to settle that

claim. Additionally, the contractor claimed differing site conditions during pile driving. The soil conditions were significantly harder than the plans indicated.

The estimated deficit of \$840,000 reflects the difference between the total project allocation to date and the final project cost, which includes the total cost to settle all outstanding construction claims.

The claims were reviewed and negotiated with the contractor, and the Department recommends settling these claims.

**FUNDING OPTIONS:**

OPTION A: Approve this request, as presented above, for \$840,000 to settle construction claims and close out the contract.

OPTION B: Deny this request and allow the contractor to pursue contract claims through legal action.

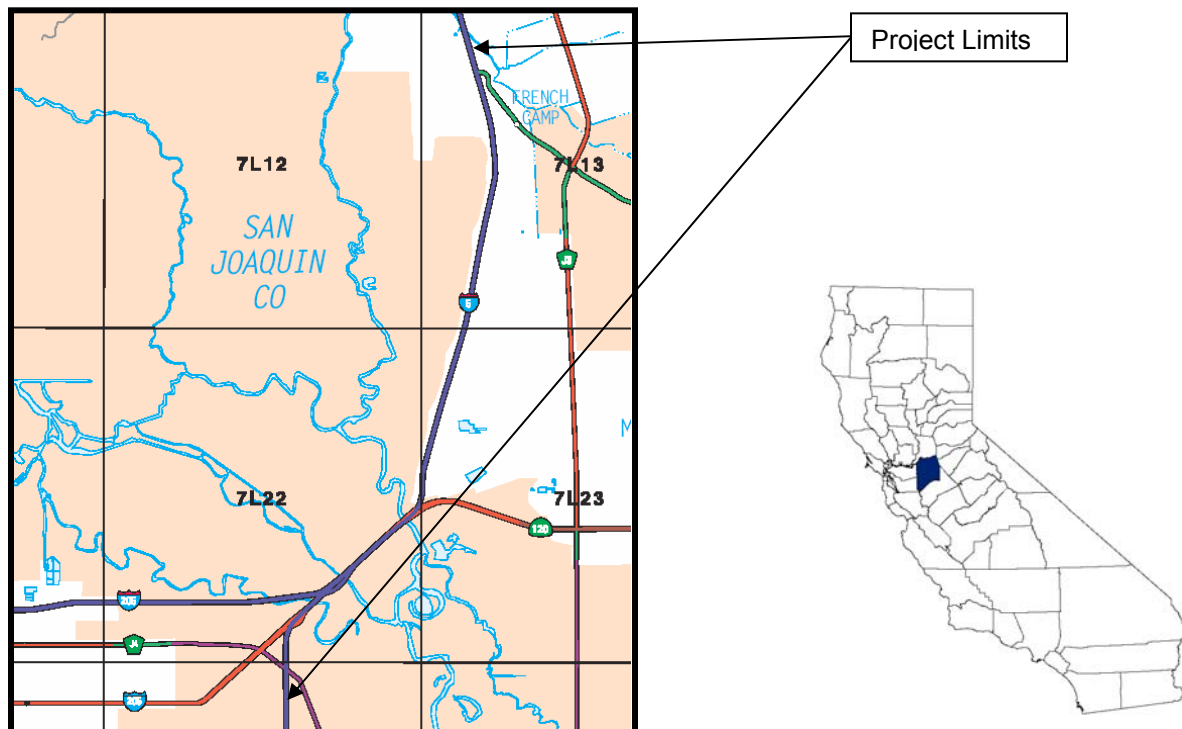
**RECOMMENDED OPTION:**

The Department recommends that this request of \$840,000, as presented in Option A above, be approved to settle construction claims and close out the contract.

Project # Allocation Amount Recipient County Dist-Co-Rte Postmile	Location Project Description Reason for Supplemental Funds	EA PPNO Budget Year Prgm Codes Program	State Federal Current Budget Amount	State Federal Additional Allocation	State Federal Revised Total Amount
<b>2.5e.(1) Supplemental Funds for Previously Voted Projects</b>			<b>Resolution FA-06-06</b>		
2 \$55,000 Department of Transportation San Joaquin 10N-SJ-5 10.7/R22.5	Near Tracy south of Deuel to north of French Camp Turnpike. Roadway rehabilitation.  Supplemental funds are needed to pay an arbitration award.	460801 10-7201 1998-99 302-0042 302-0890 20.20.201.120 SHOPP  460801 10-7201 2006-07 302-0042 302-0890 20.20.201.120 SHOPP	\$1,215,000 \$13,200,000  - -	- -	\$1,215,000 \$13,200,000  \$5,000 \$50,000
			\$14,415,000	\$55,000	\$14,470,000

**RECOMMENDATION:**

The Department recommends that this request for \$55,000 be approved to pay an arbitration award and close out the contract.

**PROJECT DESCRIPTION:**

The project is located on Route 5 in San Joaquin County, in and near the cities of Lathrop and Stockton, from 0.1 mile south of Deuel Overhead to 0.4 mile north of French Camp Turnpike Undercrossing. The project was to rehabilitate the existing freeway by resurfacing with asphalt

concrete, improving drainage facilities and metal beam guardrail, and treating the existing bridge surfaces.

**FUNDING STATUS:**

At the December 1998 Commission meeting, \$11,900,000 was allocated for this State Highway Operation and Protection Program (SHOPP) project. Supplemental funds totaling \$2,515,000 was subsequently approved, and the project was awarded in May 1999 for \$14,415,000. An additional \$1,225,000 in supplemental funds was approved in September 2000 to pay for contract change orders. Construction was completed in September 2001. The contractor filed claims in the amount of \$239,989 and started arbitration proceedings in May 2003. Through arbitration, the contractor was awarded \$139,080 plus interest from June 22, 2006 through December 11, 2006. The remaining contingency on the project is not enough to cover the award; therefore, an additional \$55,000 in supplemental funds is needed to settle the arbitration and close out the contract.

**REASONS FOR COST INCREASE:**

The Department noticed that the polymer chip seals had not set up quickly enough on other projects to meet the contractual lane closure windows on this project. Therefore, the Department required a change in the specification of the polymer chip seal and extended the lane closure periods to allow the polymer sufficient time to harden prior to exposure to traffic. The Department did not believe that the contractor's operations were affected by this change, but through arbitration proceedings, the contractor was awarded damages for project delay caused by the redesign of the polymer chip seal.

**FUNDING OPTIONS:**

OPTION A: Approve this request for supplemental funds, as presented above, for \$55,000 to pay an arbitration award and close out the contract.

**RECOMMENDED OPTION:**

The Department recommends that this request of \$55,000, as presented in Option A above, be approved to pay an arbitration award and close out the contract.